

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARIEL COGHIAN SALAS

Claim No. CU-2862

Decision No. CU-864

Under the International Claims Settlement
Act of 1949, as amended

AMENDED PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was denied by Proposed Decision issued December 20, 1967, for failure of proof. Claimant having since submitted satisfactory evidence, the decision is hereby amended.

The Commission finds that claimant owned a plot of land and house at 3405 - 11th Avenue, Reparto Nueva, Santa Fe, Bauta, the furniture and furnishings therein, as well as certain items of clothing. Additionally the record establishes that claimant owned 2,830 pesos in "old" currency, left in a private deposit in Cuba.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].) Further, the Commission finds that the furniture, furnishings and other personal property in the house were taken on December 6, 1961.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes, in support of the claimed values claimant's detailed accounts, copies of Cuban agency letters, of a construction contract, various receipts and photographs.

The record discloses that when claimant left Cuba in June 1961, she placed 2,830 pesos in a private depository in Cuba.

By Law 963, published in the Official Gazette on August 4, 1961, a currency exchange was ordered, to be carried out on August 6 and 7, 1961. All old currency was to be turned in at designated Centers in exchange for new Cuban bank notes. No one was allowed, under the Law, to receive more than 200 new pesos, and all currency in excess of that amount was placed in a special account in the individual's name. After the exchange old currency was of no value. A 60-day extension was provided in Article X for those showing good reason for their inability to surrender their money on the specified days of exchange. Article XI of Law 963 declared all currency which, at the time of promulgation, was outside the territory under the jurisdiction of the Cuban State to be null and of no legal force. Law 964, published on August 9, 1961, provided for the confiscation of all of the new special accounts over 10,000 pesos established pursuant to Law 963.

Prior to leaving claimant was unable to convert her peso currency into United States dollars, nor has she since been able to effect such a conversion. The first situation resulted because after the Castro

takeover banks were unable, due to governmental restrictions, to convert money or remit sums owed to creditors; e.g., Claim of Omni Products Corporation, Claim No. CU-4561; and the latter situation resulted because the above-described Cuban laws rendered her pesos valueless.

The Commission recognizes that a state's undeniable sovereignty over its currency is traditionally recognized by public international law; and to the power granted by municipal law there is a corresponding international right to the exercise of which other states cannot, as a rule, object (Mann, The Legal Aspects of Money, 419 (1953)).

The Commission has concluded that Cuban Law 963 and its implementation with respect to claimant constituted a taking of property by the Government of Cuba within the contemplation of Title V of the Act; that the loss in the amount of 2,830 pesos occurred on August 4, 1961; and the pesos had a value of \$2,830.00 on that date. (See Claim of Betty G. Boyle, Claim No. CU-3473, 1968 FCSC Ann. Rep. 81.)

Based on the entire record, the Commission finds that the land and house had a value of \$7,100.00 and the furniture, furnishings and clothing had a value of \$1,800.00. As stated above the pesos had a value of \$2,830.00.

Accordingly, the Commission concludes that claimant suffered a loss in the aggregate amount of \$11,730.00 within the meaning of Title V of the Act, as the result of the taking of her property by the Government of Cuba.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered, as follows:

<u>FROM</u>	<u>ON</u>
December 6, 1961	\$ 8,900.00
August 4, 1961	2,830.00

Accordingly, the following certification of loss will be entered and the remainder of the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that MARIEL COGHLAN SALAS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Eleven Thousand Seven Hundred Thirty Dollars (\$11,730.00) with interest at 6% per annum from the respective dates of loss to the date of settlement.

Dated at Washington, D. C., and
entered as the Amended Proposed
Decision of the Commission

12 FEB 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

CU-2862

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WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARIEL COGHLAN SALAS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2862

Decision No. CU **864**

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$8,900.00, was presented by MARIEL COGHLAN SALAS and is based upon the asserted loss of certain real and personal property located in Nueva Santa Fe, Havana, Cuba. Claimant has been a national of the United States since her birth in the United States.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

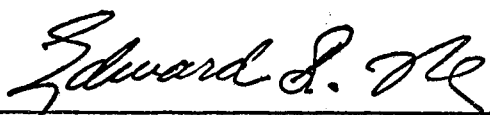
Claimant states that she was the owner of certain improved real property and personal property located in Nueva Santa Fe, Havana, Cuba, and that the subject property was taken by the Government of Cuba in July 1961. The record contains a copy of a deposit slip concerning property left at the Swiss Embassy in Cuba. The record also contains a photograph of a house which claimant asserts to be the subject realty and a sketch of a floor plan of this house. No other evidence has been filed in support of this claim.

By Commission letter of June 19, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. On September 28, 1967, claimant was invited to submit any evidence available to her within forty-five (45) days from that date, and she was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has been submitted.

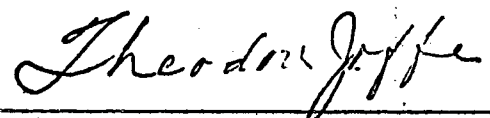
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership by a national of the United States of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

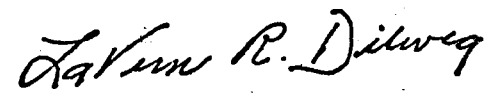
20 DEC 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

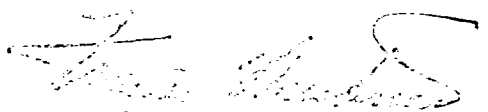


LaVern R. Dilweg, Commissioner

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on _____





Clerk of the Commission

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)

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